

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, MARCH 18, 2003
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:11 a.m. Mayor Murphy recessed the meeting at 10:44 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 10:54 a.m. with all Council Members present.

Mayor Murphy wished to take the opportunity to personally thank each member of the Citizens' Task Force on Chargers Issues by presenting each person with a recognition plaque for their hundreds of hours of unpaid service, hard work, and dedication. Mayor Murphy presented the plaques to Chair David Watson, Vice-Chair Nikki Clay, Pepper Coffey, Tom Fat, Bruce Henderson, Karen Heumann, Bill Largent, Joe Martinez, Geoff Patnoe, Patti Roscoe, Ron Saathoff, Len Simon, Jeff Smith; and for all her hard work on behalf of the Task Force and for her dedication, City employee Libby Coalson. Citizens' Task Force on Chargers Issues Members Cassandra Clady, and Timothy Considine were unable to attend today.

The meeting was recessed by Mayor Murphy at 12:00 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:12 p.m. with Council Members Maienschein and Frye not present. Mayor Murphy recessed the meeting at 4:06 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:17 p.m. with Council Member Inzunza not present. Mayor Murphy recessed the meeting at 5:42 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:49 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 6:33 p.m. to Closed Session immediately thereafter in the 12th floor conference room to discuss potential and pending litigation and Meet and Confer matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Inzunza-present

Clerk-Abdelnour (pr/er)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour/Lane called the roll:

(M) Mayor Murphy-present

(1) Council Member Peters-present

(2) Council Member Zucchet-present

(3) Council Member Atkins-present

(4) Council Member Lewis-present

(5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Inzunza-not present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Comment by Don Stillwell regarding education in America and the First Amendment.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:12 a.m.- 10:14 a.m.)

**PUBLIC COMMENT-2: REFERRED TO THE CITY ATTORNEY AND THE CITY
CLERK**

Comment by Noel Neudeck regarding public testimony during Special Order of Business items.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:15 a.m.- 10:17 a.m.)

PUBLIC COMMENT-3: REFERRED TO THE CITY MANAGER

Comment by Randy Berkman concerning a proposed AAA Office building in West Mission Valley, and his feeling that the incorrect process is being followed.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:18 a.m.- 10:20 a.m.)

PUBLIC COMMENT-4:

Comment by Scott McLachlan wishing to thank the City Council and Council Member Frye for services he requested regarding transportation and traffic.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:21 a.m.- 10:22 a.m.)

PUBLIC COMMENT-5:

Comment by Rudolf Hradecky regarding his request that keg beer be banned from San Diego beaches on July 4, 2003, and to require a permit for all other times of the year.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:23 a.m.- 10:25 a.m.)

PUBLIC COMMENT-6:

Comment by Jarvis Ross regarding Rosecrans Street and identifying, retaining, and preserving the existing historic vegetation prior to project work.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m.- 10:29 a.m.)

PUBLIC COMMENT-7:

Comment by Mary Kaliff regarding the Nomads Soccer Club and Academy she represents.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m.- 10:33 a.m.)

PUBLIC COMMENT-8:

Comment by Bill Bradshaw regarding the city budget and reduction in services to the public.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m.- 10:35 a.m.)

PUBLIC COMMENT-9:

Comment by Joyceline Tarr regarding trimming palm trees on Newport Avenue, and city potholes.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m.- 10:37 a.m.)

PUBLIC COMMENT-10:

Comment by Mel Shapiro regarding housing for the homeless and the senior plight.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m.- 10:40 a.m.)

PUBLIC COMMENT-11:

Comment by Ron Boshun regarding American's influence on people all over the world.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m.- 10:43 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Lewis commended the Graffiti Strike Force Team for a job well done.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:19 p.m. - 2:21 p.m.)

COUNCIL COMMENT-2:

Council Member Atkins announced that District 3 will be hosting a budget forum in Balboa Park from 6:30 p.m. to 9:00 p.m. She requested that people call her office if they have any questions.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:21 p.m. - 2:22 p.m.)

COUNCIL COMMENT-3:

Council Member Peters stated that in reference to the concern by Mr. Bradshaw regarding the state of the budget and the crumbling sewer infrastructure, there has been a 40 percent decline in the number of sewer spills and beach closures and the Council deserves credit for that.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:23 p.m.)

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-330: In the Matter of the Citizens' Task Force on Chargers Issues, and the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium between the City of San Diego and the San Diego Chargers.

(Mission Valley and Serra Mesa Community Areas. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1112) ADOPTED AS AMENDED AS RESOLUTION R-297734

Accepting the Final Report of the Citizens' Task Force on Chargers Issues;

Designating a City negotiating team consisting of Deputy City Manager Bruce Herring, Assistant City Attorney Leslie J. Girard, and such other attorneys, consultants or experts as the City Manager and City Attorney deem necessary and appropriate;

Directing the City negotiating team to meet with the Chargers pursuant to the recommendations set forth in the Task Force Report and in response to the Renegotiation Notice delivered to the City by the San Diego Chargers;

Directing the City Manager and City Attorney, and their designated representatives and retained consultants, to continue to investigate the validity of the Renegotiation Notice and the purported existence of the Triggering Event as defined in the 1995 Agreement, and to report back to the City Council on the matter as the review and investigation proceeds;

Authorizing and directing the City Attorney and City Manager to retain such attorneys, consultants or experts as they deem necessary and appropriate for the purpose of being members of the City's negotiating team or otherwise providing services to the City of San Diego in connection with the receipt of the Renegotiation Notice, each in initial amounts not to exceed \$100,000, subject to the City Auditor and Comptroller first certifying the availability of funds as required by law;

Authorizing and directing the City Attorney to retain the law firm of Procopio, Cory, Hargreaves and Savitch LLP to provide legal services to the City in connection with the receipt of the Renegotiation Notice, and authorizing an initial expenditure not to exceed \$100,000 for that purpose, subject to the City Auditor and Comptroller first certifying the availability of funds as required by law;

Authorizing and directing the City Attorney to retain the accounting firm of Nation Smith Hermes Diamond/BDO Seidman for the purpose of providing expert accounting services in connection with the receipt of the Renegotiation Notice, and authorizing an initial expenditure not to exceed \$50,000 for that purpose, subject to the City Auditor and Comptroller first certifying the availability of funds as required by law.

FILE LOCATION: MEET (61)

COUNCIL ACTION: (Time duration: 10:55 a.m.- 11:58 a.m.; 2:23 p.m. - 6:30 p.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTION AS FOLLOWS:

1. ACCEPT THE FINAL REPORT OF THE CITIZENS' TASK FORCE ON CHARGERS' ISSUES.
2. DESIGNATE A CITY NEGOTIATING TEAM CONSISTING OF DEPUTY CITY MANAGER BRUCE HERRING, ASSISTANT CITY ATTORNEY LESLIE J. GIRARD AND SUCH OTHER ATTORNEYS, CONSULTANTS, OR EXPERTS AS APPROVED BY THE MAYOR AND CITY COUNCIL.
3. DIRECT THE CITY NEGOTIATING TEAM, ONCE ESTABLISHED BY THE CITY COUNCIL, TO MEET WITH THE CHARGERS PURSUANT TO THE RECOMMENDATIONS SET FORTH IN THE TASK FORCE REPORT AND IN RESPONSE TO THE RENEGOTIATION NOTICE DELIVERED TO THE CITY BY THE SAN DIEGO CHARGERS AND TO REGULARLY REPORT BACK TO THE CITY COUNCIL.
4. DIRECT THE CITY MANAGER AND CITY ATTORNEY AND THEIR DESIGNATED REPRESENTATIVES AND RETAINED CONSULTANTS, AS APPROVED BY MAYOR AND COUNCIL, TO CONTINUE TO INVESTIGATE:
 - a) THE VALIDITY OF THE RENEGOTIATION NOTICE;
 - b) THE PURPORTED EXISTENCE AND LEGAL VALIDITY OF THE TRIGGERING EVENT AS DEFINED IN THE 1995 AGREEMENT;
 - c) OPTIONS FOR THE CITY TO "OFFSET THE TRIGGERING EVENT";
 - d) ANY STRATEGIES THAT MAY HELP PROTECT THE RIGHTS OF THE CITY UNDER THE AGREEMENT AND LIMIT, RATHER THAN EXPAND, THE RAMIFICATIONS OF THE TRIGGERING EVENT ON THE CITY OF SAN DIEGO; AND
 - e) ANY LEGAL STRATEGIES THAT MAY BE USED TO ENSURE THAT THE CHARGERS HAVE PERFORMED ON ALL OF THEIR OBLIGATIONS UNDER THE AGREEMENT.

REPORT BACK TO THE CITY COUNCIL ON A REGULAR BASIS IN CLOSED OR OPEN SESSION AS THE REVIEW AND INVESTIGATION PROCEEDS.

5. AUTHORIZE AND DIRECT THE CITY ATTORNEY AND CITY MANAGER TO RETAIN SUCH ATTORNEYS, CONSULTANTS, OR EXPERTS AS THEY DEEM NECESSARY AND APPROPRIATE FOR THE PURPOSE OF BEING MEMBERS OF THE CITY'S NEGOTIATING TEAM OR OTHERWISE PROVIDING SERVICES TO THE CITY OF SAN DIEGO IN CONNECTION WITH THE RECEIPT OF THE RENEGOTIATION NOTICE, EACH IN INITIAL AMOUNTS NOT TO EXCEED \$100,000, SUBJECT TO THE CITY AUDITOR AND COMPTROLLER FIRST CERTIFYING THE AVAILABILITY OF FUNDS AS REQUIRED BY LAW.
6. AUTHORIZE AND DIRECT THE CITY ATTORNEY TO RETAIN THE LAW FIRM OF PROCOPIO, CORY, HARGREAVES & SAVITCH LLP TO PROVIDE LEGAL SERVICES TO THE CITY IN CONNECTION WITH THE RECEIPT OF THE RENEGOTIATION NOTICE AND AUTHORIZING AN INITIAL EXPENDITURE NOT TO EXCEED \$100,000 FOR THAT PURPOSE, SUBJECT TO THE CITY AUDITOR AND COMPTROLLER FIRST CERTIFYING THE AVAILABILITY OF FUNDS AS REQUIRED BY LAW.
7. AUTHORIZE AND DIRECT THE CITY ATTORNEY TO RETAIN THE ACCOUNTING FIRM OF NATION SMITH HERMES DIAMOND/BDO SEIDMAN FOR THE PURPOSE OF PROVIDING EXPERT ACCOUNTING SERVICES IN CONNECTION WITH THE RECEIPT OF THE RENEGOTIATION NOTICE, AND AUTHORIZING AN INITIAL EXPENDITURE NOT TO EXCEED \$50,000 FOR THAT PURPOSE, SUBJECT TO THE CITY AUDITOR AND COMPTROLLER FIRST CERTIFYING THE AVAILABILITY OF FUNDS AS REQUIRED BY LAW.

Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-nay, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

NONE.

The meeting was adjourned by Mayor Murphy at 6:33 p.m. in honor of the memory of:

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:30 p.m.- 6:33 p.m.)